

## Appointment

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**From:** Hoffer, Melissa [Hoffer.Melissa@epa.gov]  
**Sent:** 5/24/2021 2:56:46 PM  
**To:** Hoffer, Melissa [Hoffer.Melissa@epa.gov]; Garbow, Avi [Garbow.Avi@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]; Nagle, Deborah [Nagle.Deborah@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]; Zomer, Jessica [Zomer.Jessica@epa.gov]; Tsuki.hoshijima@usdoj.gov; tcmar@earthjustice.org; jgonzalez@earthjustice.org; lperfecto@earthjustice.org; mozaeta@earthjustice.org; lpiette@earthjustice.org; casey.roberts@sierraclub.org; joshua.smith@sierraclub.org; hconnor@biologicaldiversity.org; bhartl@biologicaldiversity.org; aruss@environmentalintegrity.org; jpeters@cleanwater.org; jdevine@nrdc.org; lgriffith@selcnc.org; fholleman@selcnc.org; agarcia@selctn.org; mkimball@selcnc.org; Payne, James (Jim) [payne.james@epa.gov]  
**CC:** Gibson, Neshawne [Gibson.Neshawne@epa.gov]; Shaw, Carla [Shaw.Carla@epa.gov]; Patrick, Monique [Patrick.Monique@epa.gov]  
**Subject:** Steam Electric Reconsideration Rule  
**Location:** Microsoft Teams Meeting  
**Start:** 5/24/2021 2:30:00 PM  
**End:** 5/24/2021 3:30:00 PM  
**Show Time As:** Tentative

**Required Attendees:** Garbow, Avi; Best-Wong, Benita; Nagle, Deborah; Neugeboren, Steven; Levine, MaryEllen; Zomer, Jessica; Tsuki.hoshijima@usdoj.gov; tcmar@earthjustice.org; jgonzalez@earthjustice.org; lperfecto@earthjustice.org; mozaeta@earthjustice.org; lpiette@earthjustice.org; casey.roberts@sierraclub.org; joshua.smith@sierraclub.org; hconnor@biologicaldiversity.org; bhartl@biologicaldiversity.org; aruss@environmentalintegrity.org; jpeters@cleanwater.org; jdevine@nrdc.org; lgriffith@selcnc.org; fholleman@selcnc.org; agarcia@selctn.org; mkimball@selcnc.org; Payne, James  
**Optional Attendees:** Gibson, Neshawne; Shaw, Carla; Patrick, Monique

POC: Monique Patrick

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November 4, 2020

Correspondence Control Unit  
Office of General Counsel (2311)  
United States Environmental Protection Agency  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**By Priority Mail Express and Certified Mail with Return Receipt**

Re: Petition for Review in the United States Court of Appeals for the District of  
Columbia Circuit

To Whom It May Concern:

I represent Clean Water Action, Sierra Club, Waterkeeper Alliance, Inc., Natural Resources Defense Council, Inc., and Center for Biological Diversity, Petitioners alongside Environmental Integrity Project, PennEnvironment, Inc., Chesapeake Climate Action Network, and Prairie Rivers Network, in the above-captioned matter. Please find enclosed a time-stamped copy of a petition for review of the U.S. Environmental Protection Agency's rule entitled *Steam Electric Reconsideration Rule*, which was published in the Federal Register at 85 Fed. Reg. 64,650 on October 13, 2020. This petition for review was filed in the United States Court of Appeals for the District of Columbia Circuit on November 2, 2020.

Please contact me if you have any questions concerning these documents. Thank you for your attention to this matter.

Sincerely,

Thomas Cmar  
Earthjustice  
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Chicago, IL 60606  
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*U.S. Environmental Protection Agency*

*November 4, 2020*

*Page 2 of 2*

*Counsel for Petitioners Clean Water Action,  
Sierra Club, Waterkeeper Alliance, Inc.,  
Natural Resources Defense Council, Inc., and  
Center for Biological Diversity*

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

CLEAN WATER ACTION,  
ENVIRONMENTAL INTEGRITY PROJECT,  
SIERRA CLUB, WATERKEEPER  
ALLIANCE, INC., NATURAL RESOURCES  
DEFENSE COUNCIL, INC., CENTER FOR  
BIOLOGICAL DIVERSITY,  
PENNVIRONMENT, INC., CHESAPEAKE  
CLIMATE ACTION NETWORK, and  
PRAIRIE RIVERS NETWORK

Petitioners,

v.

ANDREW WHEELER, Administrator, U.S.  
Environmental Protection Agency and U.S.  
ENVIRONMENTAL PROTECTION AGENCY

Respondents.

Case No. 20-1436

**PETITION FOR REVIEW**

Pursuant to Section 509(b)(1) of the Clean Water Act, 33 U.S.C.

§ 1369(b)(1), and Federal Rule of Appellate Procedure 15(a), Clean Water Action, Environmental Integrity Project, Sierra Club, Waterkeeper Alliance, Inc., Natural Resources Defense Council, Inc., Center for Biological Diversity, PennEnvironment, Inc., Chesapeake Climate Action Network, and Prairie Rivers Network hereby petition this Court for review of the final action of the United States Environmental Protection Agency and Andrew Wheeler entitled *Steam*

*Electric Reconsideration Rule*, which was published in the Federal Register at 85 Fed. Reg. 64,650 on October 13, 2020 (Attachment 1). The agency docket number for the rule is EPA-HQ-OW-2009-0819. In accordance with the Federal Register notice and 40 C.F.R. part 23, the rule was issued for purposes of judicial review on October 27, 2020.

Dated: November 2, 2020

Respectfully submitted,

/s Thomas Cmar

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*Counsel for Petitioners Clean Water Action, Sierra Club,  
Waterkeeper Alliance, Inc., Natural Resources Defense  
Council, Inc., and Center for Biological Diversity*

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Environmental Law Program  
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*Counsel for Petitioner Sierra Club*

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*Counsel for Petitioner Center for Biological Diversity*

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*Counsel for Petitioners Environmental Integrity Project,  
PennEnvironment, Inc., Chesapeake Climate Action  
Network, and Prairie Rivers Network*

PRESS FIRMLY TO SEAL

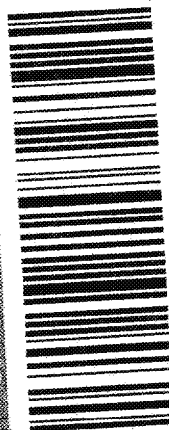


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Chicago, IL 60606

TO:

Correspondence Control Unit  
Office of General Counsel (2311)  
United States Environmental Protection Agency  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460





Dated: November 2, 2020

Respectfully submitted,

/s/ Leslie Griffith

Leslie Griffith

Frank S. Holleman, III

Nicholas S. Torrey

Southern Environmental Law Center

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*Counsel for Petitioners*

# ATTACHMENT 1

64650 Federal Register / Vol. 85, No. 198 / Tuesday, October 13, 2020 / Rules and Regulations

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 423**

[EPA-HQ-OW-2009-0819; FRL-10014-41-OW]

RIN 2040-AF77

**Steam Electric Reconsideration Rule**

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or the Agency) is finalizing a regulation to revise the technology-based effluent limitations guidelines and standards (ELGs) for the steam electric power generating point source category applicable to flue gas desulfurization (FGD) wastewater and bottom ash (BA) transport water. This final regulation is estimated to save approximately \$140 million annually in after tax compliance costs as a result of less costly FGD wastewater technologies that could be used with the modification of the Steam Electric Power Generating Effluent Guidelines 2015 rule (the 2015 rule) limitations; less costly BA transport water technologies made possible by the revision of the 2015 rule's zero discharge limitations; a two-year extension of compliance time frames for meeting FGD wastewater and BA transport water limitations, and additional subcategories for both FGD wastewater and BA transport water. Participation in the voluntary incentive program would contribute to the reduction in pollutant discharges by these steam electric power plants in FGD wastewater by approximately 26.7 million pounds per year.

**DATES:** This final rule is effective on December 14, 2020. In accordance with 40 CFR part 23, this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on October 27, 2020. Under section 509(b)(1) of the CWA, judicial review of this regulation can be had only by filing a petition for review in the U.S. Court of Appeals within 120 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2), the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OW-2009-0819. All documents in the docket are listed on the <http://www.regulations.gov> website.

Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For technical information, contact Richard Benware, Engineering and Analysis Division, Telephone: 202-566-1369; Email: [benware.richard@epa.gov](mailto:benware.richard@epa.gov). For economic information, contact James Covington, Engineering and Analysis Division, Telephone: 202-566-1034; Email: [covington.james@epa.gov](mailto:covington.james@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Preamble Acronyms and Abbreviations.** We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, EPA defines terms and acronyms in Appendix A.

**Supporting Documentation.** Today's final rule is supported by numerous documents including:

- *Supplemental Technical Development Document for Revisions to the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category* (Supplemental TDD), Document No. EPA-821-R-20-001. The Supplemental TDD summarizes the technical and engineering analyses supporting the final rule. It presents EPA's updated analyses supporting the revisions to FGD wastewater and BA transport water. These updates include additional data collected since the signature of the 2015 rule, updates to the industry (e.g., retirements, updates to FGD treatment and BA handling), cost methodologies, pollutant removal estimates, corresponding non-water quality environmental impacts associated with updated FGD and BA methodologies, and explanations of the calculations of the effluent limitations and standards. Except for the updates described in the Supplemental TDD, the *Technical Development Document for the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category* (2015 TDD, Document No. EPA-821-R-15-007) is still applicable and provides a more complete summary of EPA's data collection, description of the industry, and underlying analyses supporting the ELGs established for other wastestreams in the 2015 rule.

- *Supplemental Environmental Assessment for Revisions to the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category* (Supplemental EA), Document No. EPA-821-R-20-002. The Supplemental EA summarizes the potential environmental and human health impacts that are estimated to result from implementation of this final rule.

- *Benefit and Cost Analysis for Revisions to the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category* (BCA Report), Document No. EPA-821-R-20-003. The BCA Report summarizes estimates of the societal benefits and costs resulting from implementation of this final rule.

- *Regulatory Impact Analysis for Revisions to the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category* (RIA), Document No. EPA-821-R-20-004. The RIA presents a profile of the steam electric power generating industry, a summary of estimated costs and impacts associated with this final rule, and an assessment of the potential impacts on employment and small businesses.

- *Response to Public Comments for Revisions to the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category.* This document provides EPA's responses to substantive public comments received on the 2019 proposed rule.

- *Docket Index for the Revisions to the Steam Electric ELGs.* This document provides a list of the additional memoranda, references, and other information relied upon by EPA for this final rule.

**Organization of this Document.** The information in this preamble is organized as follows:

- I. Executive Summary
- II. Public Comments and Online Public Hearing
- III. General Information
  - A. Does this action apply to me?
  - B. What action is EPA taking?
  - C. What is EPA's authority for taking this action?
  - D. What are the monetized incremental costs and benefits of this action?
- IV. Background
  - A. Clean Water Act (CWA)
  - B. Relevant Effluent Guidelines
    1. Best Practicable Control Technology Currently Available (BPT)
    2. Best Available Technology Economically Achievable (BAT)
    3. Pretreatment Standards for Existing Sources (PSES)
  - C. 2015 Steam Electric Power Generation Point Source Category Rule

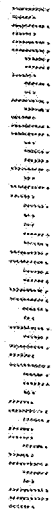
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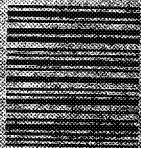
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12/29/91

Message

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**From:** Razor, Lila [Razor.Lila@epa.gov]  
**Sent:** 4/13/2021 8:50:27 PM  
**To:** Payne, James (Jim) [payne.james@epa.gov]  
**Subject:** Evening Binder for 4-14  
**Attachments:** Brief on Steam Electric.pdf

Hi Jim,

Attached are briefing documents that were passed through. They are not on your calendar for tomorrow- just FYI

*lr*

*Lila L. Razor*

Executive Support Specialist  
EPA Office of General Council/IO  
Room 4407G  
202.564.1103  
razor.lila@epa.gov

Message

---

**From:** Razor, Lila [Razor.Lila@epa.gov]  
**Sent:** 4/15/2021 8:36:16 PM  
**To:** Payne, James (Jim) [payne.james@epa.gov]  
**Subject:** Evening Binder for 4-16  
**Attachments:** Steam Electric for 4-16.pdf; Lake Erie for 4-16.pdf

Hi Jim,

Attached are documents for tomorrow's mtgs

- Steam Electric at 1pm
- Lake Erie at 4pm

No other material rec'd

Thanks

*lr*

*Lila L. Razor*

Executive Support Specialist  
EPA Office of General Council/IO  
Room 4407G  
202.564.1103  
razor.lila@epa.gov



Message

**From:** Packard, Elise [Packard.Elise@epa.gov]  
**Sent:** 5/25/2021 12:23:51 PM  
**To:** Conrad, Daniel [conrad.daniel@epa.gov]; Payne, James (Jim) [payne.james@epa.gov]; Chaudhary, Dimple [Chaudhary.Dimple@epa.gov]; Engelman-Lado, Marianne [EngelmanLado.Marianne@epa.gov]  
**Subject:** FW: CONSOLIDATED LAW OFFICE BRIEFING PAPERS: Also see my 12/15 emails with list and schedules  
**Attachments:** CPP Briefing Paper 12-21-17.docx; RFS Briefing Paper 12-21-17.docx; Kigali Briefing Paper 12-21-17.docx; MTE Briefing Paper 12-21.docx; Regional Haze Leopold Briefing 12-22-2017 v3.docx; Matt L oil and gas background.docx; GKM Relevant Statutory Provisions.pdf; GKM Maps Attachment 12.26.17.pdf; Gold King Mine Overview 12.27.17.pdf; Gold King Mine NM and NN 12.27.17.pdf; Gold King Mine Utah 12.27.17.pdf; Gold King Mine Tort Liability Briefing 12.27.17.pdf; CERCLA EPCRA Reporting Provisions.pdf; CERCLA EPCRA reporting - SWERLO 12.27.17.pdf; CCR Remand Rule Briefing - SWERLO 12.27.17.pdf; WIIN Act.pdf; ESA PTSLO Briefing paper 12-27.pdf; Briefing Outline - TSCA Existing Chemicals final draft.pdf; Briefing Outline - TSCA New Chemicals final draft.pdf; Special Accounts publicly available documents 12.27.17.pdf; Special Accounts Briefing paper 12.27.17.pdf; briefing doc.12 27.pdf; Key Agency Officials.docx; WLO Briefing for Matt Leopold on Steam Electric Rulemaking and Litigati....pdf; WLO Briefing for Matt Leopold on WOTUS January 2018 - Final.pdf; WLO Briefing Paper for Matt Leopold on Lead and Copper Rule and 1431 Eme....pdf; SWERLO -- Key Officials; RE: FOLLOW UP: Template for ADDs to provide Key Agency Officials Information

**From:** Albores, Richard <Albores.Richard@epa.gov>  
**Sent:** Thursday, December 28, 2017 2:22 PM  
**To:** Minoli, Kevin <Minoli.Kevin@epa.gov>  
**Cc:** Baptist, Erik <Baptist.Erik@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Burke, Marcella <burke.marcella@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>  
**Subject:** CONSOLIDATED LAW OFFICE BRIEFING PAPERS: Also see my 12/15 emails with list and schedules

Kevin:

Eric reminded me that he and deputies were supposed to review these before they go to Matt.

I realize now that they ADDs only sent the papers to me/Derek/Shawn, but not upper management, so we may be a little delayed according to the schedule below. ARLO's are in word, I will work on converting them to PDFs.

Only SWERLO and PTSLO provided key officials (emails attached). CCILO expects that Matt will meet various OP officials as issues come up, so did not provide a list.

ITEM	DUE DATE	BY WHOM?	TO WHOM?	FORMAT	OTHER NOTES
<b>Briefing Outlines</b>	Wednesday 12/27/17 12:00	ADDs	Shaun Trudeau	Fillable PDF	<b>Must be in outline form.</b> Attach statutory and regulatory provisions.
<b>Key Agency Officials</b>	Wednesday 12/27/17 12:00	ADDs	Shaun Trudeau	Template to come	For all areas within your purview, identify any key officials Matt should reach out to in his first few weeks.

Also were you able to send out information to Matt while I was gone between 12/15 and 12/21? Can I get a copy?

R

~~~~~

**RICHARD L. ALBORES**

Associate Deputy General Counsel \* Office of General Counsel \* U.S. EPA \* 1200 Pennsylvania Avenue, NW \* MC2310A  
\* Washington, DC 20460 \* email: [albores.richard@epa.gov](mailto:albores.richard@epa.gov) \* phone: 202.564.7102 \* mobile: 202.809.8029